

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

IN RE	:	CHAPTER 13
	:	
RACHELLE HUTCHESON,	:	CASE NO. 18-66682-JRS
	:	
Debtor.	:	
	:	
	:	
<u>HYUNDAI CAPITAL AMERICA DBA</u>	:	
<u>KIA MOTORS FINANCE,</u>	:	
	:	
Movant,	:	
	:	CONTESTED MATTER
v.	:	
	:	
RACHELLE HUTCHESON, Debtor;	:	
and NANCY J. WHALEY, Trustee,	:	
	:	
Respondents.	:	

OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN

COMES NOW HYUNDAI CAPITAL AMERICA DBA KIA MOTORS FINANCE (the "Movant"), a creditor of the referenced Debtor, and hereby moves this Court to deny confirmation of Debtor's Chapter 13 Plan. In support of its objection, the Movant shows the Court as follows:

1.

On October 2, 2018, Rachelle Hutcheson ("Debtor") filed a Voluntary Petition pursuant to 11 U.S.C. Section 1301 et seq., and said case is presently pending before this Court.

2.

Movant has a net claim in this case in the approximate amount of \$24,919.48 secured by a 2015 Kia Sportage (the "Collateral").

3.

Debtor's plan provides to pay Movant \$13,650 at 5.5% at \$100 per month until December 2019 when payments got to \$625.00 per month.

4.

Debtor's plan provides an unfair cram down of Movant's claim. The value of the vehicle at the time of filing was \$16,100.00. Even with a deduction of the mileage Debtor claims at 70,000 miles the value of the vehicle was \$15,275.00. See exhibits attached hereto.

5.

Movant should receive no less 7% interest.

6.

Movant should receive no less than \$225.00 per month retroactive until the step increase in December of 2019.

7.

Movant has no proof of full coverage insurance on the Collateral.

WHEREFORE, the Movant prays that its Objection to Confirmation of Chapter 13 Plan be inquired into and sustained and that it has such other and further relief as this Court deems just and proper.

This October 17, 2018.

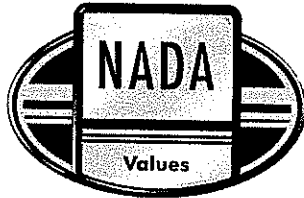
The Law Office of
LEFKOFF, RUBIN, GLEASON & RUSSO, P.C.
Attorneys for Movant

By: /s/Philip L. Rubin
Philip L. Rubin
Georgia State Bar No. 618525

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NADA Used Cars/Trucks

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Period: October 2, 2018**Region:** Georgia**VIN:** KNDPC3AC6F7784846**Ref. Number:****2015 Kia Sportage Utility 4D EX 2.4L I4****Mileage:** 52,500**Adjustment:** \$0**Base MSRP:** \$25,150**Weight:** 3,280**NADA Used Cars/Trucks Values**

	Base	Mileage Adj.	Option Adj.	Adjusted Value
Low Auction*	\$12,000	\$81	N/A	\$12,081
Average Auction*	\$13,850	\$81	N/A	\$13,931
High Auction*	\$15,725	\$81	N/A	\$15,806
Rough Trade-In	\$12,225	N/A	N/A	\$12,225
Average Trade-In	\$13,500	N/A	N/A	\$13,500
Clean Trade-In	\$14,525	N/A	N/A	\$14,525
Clean Loan	\$13,075	N/A	N/A	\$13,075
Clean Retail	\$16,100	N/A	N/A	\$16,100

* The auction values displayed include typical equipment and adjustments for mileage and any of the following applicable accessories: engine size; drivetrain, and trim.

Vehicle Information

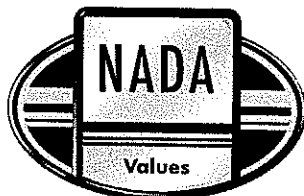
- ☐ Towing/Camper Pkg
☐ Certified Pre-Owned
☐ Navigation System
☐ Fixed Running Boards
☐ Leather Seats
☐ Luggage Rack
☐ Power Sunroof

Trade-In / Loan	Retail
\$325	\$375
N/A	\$1,075
\$450	\$500
\$50	\$75
\$450	\$500
\$50	\$75
\$575	\$650

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Period: October 2, 2018**Region:** Georgia**VIN:** KNDPC3AC6F7784846**Ref. Number:****2015 Kia Sportage Utility 4D EX 2.4L I4****Mileage:** 70,000**Adjustment:** \$-825 **Base MSRP:** \$25,150**Weight:** 3,280**NADA Used Cars/Trucks Values**

	Base	Mileage Adj.	Option Adj.	Adjusted Value
Low Auction*	\$12,000	\$-1,145	N/A	\$10,856
Average Auction*	\$13,850	\$-1,145	N/A	\$12,706
High Auction*	\$15,725	\$-1,145	N/A	\$14,581
Rough Trade-In	\$12,225	\$-825	N/A	\$11,400
Average Trade-In	\$13,500	\$-825	N/A	\$12,675
Clean Trade-In	\$14,525	\$-825	N/A	\$13,700
Clean Loan	\$13,075	\$-825	N/A	\$12,250
Clean Retail	\$16,100	\$-825	N/A	\$15,275

* The auction values displayed include typical equipment and adjustments for mileage and any of the following applicable accessories: engine size; drivetrain, and trim.

Vehicle Information

	Trade-In / Loan	Retail
<input type="checkbox"/> Towing/Camper Pkg	\$325	\$375
<input type="checkbox"/> Certified Pre-Owned	N/A	\$1,075
<input type="checkbox"/> Navigation System	\$450	\$500
<input type="checkbox"/> Fixed Running Boards	\$50	\$75
<input type="checkbox"/> Leather Seats	\$450	\$500
<input type="checkbox"/> Luggage Rack	\$50	\$75
<input type="checkbox"/> Power Sunroof	\$575	\$650

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CERTIFICATE OF SERVICE

The undersigned, Philip L. Rubin, hereby certifies that I am, and at all times hereinafter mentioned, was more than 18 years of age, and that I served the OBJECTION TO CONFIRMATION OF CHAPTER 13 PLAN on the following parties 1) electronically, if allowed by and pursuant to the requirements of local rule, or 2) by depositing same in the United States Mail in properly addressed envelope(s) with adequate postage to all others, as follows:

Rachelle Hutcheson
2585 Fair Oak Court
Lawrenceville, GA 30043

E. L. Clark
Clark & Washington, LLC
Bldg. 3
3300 Northeast Expwy
Atlanta, GA 30341

Nancy J. Whaley
Chapter 13 Trustee
303 Peachtree Center Avenue
Suite 120, Suntrust Garden Plaza
Atlanta, GA 30303

This October 17, 2018.

The Law Office of
LEFKOFF, RUBIN, GLEASON & RUSSO, P.C.
Attorneys for Movant

By: /s/Philip L. Rubin
Philip L. Rubin
Georgia State Bar No. 618525

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